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This Bill was gazetted on Friday 16th December 2016 [GN 427/2016]

H.B. 10, 2016.]

SHOP LICENCES AMENDMENT BILL, 2016

MEMORANDUM

The purpose of this Bill is to amend the Shop Licences Act [*Chapter 14:17*] in the following respects.

Clause 1

This clause cites the title of the Bill as the Shop Licences Amendment Bill, 2016.

Clause 2

Clause 2 will amend the definition of "authorised officer" by deleting the reference to "police officer".

Clause 3

This clause will amend section 5 of the principal Act by inserting a new subsection (1a) which will require licensing authorities to issue one vending machine licence to a person who operates more than one vending machine on any premises.

Clause 4

Clause 4 will repeal section 6 of the principal Act which provides for exemptions.

Clause 5

Section 8(3)(b) of the principal Act will be amended by the removal of the requirement for persons to pay a fee to inspect the record of proceedings of any licensing authority.

Clause 6

Section 12 of the principal Act will be amended so as to provide for licences to be valid for a period as determined by a licensing authority, instead of the current position which requires licences to be valid up to the 31st December for the year in which it is issued or renewed. The new provision will require licences to be valid for a period of not less than twelve months but not more than five years.

Clause 7

This proposed amendment will amend section 13 of the principal Act by requiring licensing authorities to include licensing fees in their annual budgets and which budgets must be approved by the Minister.

Clause 8

This clause will repeal section 14 which provides for the publication of applications to a licensing authority in cases where a person intends to operate a business in the area of that licensing authority.

Clause 9

Section 16 of the principal Act will be amended by inserting three new subsections (5), (6) and (7). The new subsection (5) will require licensing authorities to establish or cause to be established, or approve the establishment of electronic mediums, within five years from the date of commencement of the Amendment Act, through which persons may submit applications for licences. The new subsection (6) will allow persons to submit an electronic application for a licence, to a licensing authority which has an established or approved electronic medium.

Clause 10

This clause will amend section 20 of the principal Act by inserting a new subsection (2a) which will require a licensing authority, which intends to refuse an application for a licence, to respond to the applicant within two working days and to give the applicant its reasons for the refusal of the application.

Clause 11

Clause 11 will repeal section 23 of the principal Act which provides for the renewal of licences, as this is already provided for in section 12 of the principal Act.

Clause 12

Section 30 of the principal Act will be amended in subsection (4) to as to require licensing authorities to give reasons to permit holders in cases where the licensing authority cancels that permit holder's permit.

Clause 13

This clause will amend section 32 of the principal Act by deleting the word "search" in subsection (1)(a).

Clause 14

Section 40 of the principal Act will be repealed by this clause. Section 40 makes provision for the Administrative Court.

Clause 15

This clause will amend the First Schedule to the principal Act by including a reference to "fibre" in paragraph 1(d), by amending paragraph 4(b) so as to include a reference to "meals" and by deleting paragraph 10 of the Schedule.

Clause 16 and the Schedule

Clause 16 provides for a Schedule which will amend various sections of the principal Act by deleting the requirement for imprisonment in cases where a person fails to pay a fine as determined by a court.

BILL

To amend the Shop Licences Act [*Chapter 14:17*], and to provide for matters connected therewith or incidental thereto.

ENACTED by the Parliament and the President of Zimbabwe.

5 **1 Short title**

This Act may be cited as the Shop Licences Amendment Act, 2016.

2 Amendment of section 2 of Cap.14:17

10 Section 2 (“Interpretation”) of the Shop Licences Act [*Chapter 14:17*] (hereinafter called “the principal Act”) is amended in subsection (1), in the definition of “authorised officer” by the deletion of paragraph (a).

3 Amendment of section 5 of Cap 14:17

 Section 5 (“Control of vending machines”) of the principal Act is amended by the insertion after subsection (1) of the following subsection—

15 “(1a) Where any person operates more than one vending machine on any premises or part thereof, the licensing authority shall issue one vending licence in respect of the vending machines on such premises or part thereof.”.

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4 Amendment of section 6 of Cap. 14:17

Section 6 ("Exemptions") of the principal Act is repealed.

5 Amendment of section 8 of Cap. 14:17

Section 8 ("Meetings of and evidence before licensing authority") of the principal Act is amended in subsection (3) (b), by the deletion of "on payment of such fee as may be prescribed".

6 Amendment of section 12 of Cap. 14:17

Section 12 ("Duration of licence, fees and penalties") of the principal Act is amended—

- (a) in subsection (1) by the deletion of "up to and including the 31st December of the year for which it is issued or renewed" and the substitution of "for a period of not less than twelve months but not exceeding five years, as determined by the licensing authority concerned, from time to time";
- (b) in subsection (2), by the deletion of the proviso.

7 Amendment of section 13 of Cap. 14:17

Section 13 ("Fixing of fees") of the principal Act is amended in subsection (2) by the insertion after paragraph (b) of the following paragraph—

"(c) incorporate every licensing fee into their annual budget and such budget shall be approved by the Minister:"

8 Amendment of section 14 of Cap. 14:17

Section 14 ("Publication of application and lodging of objections") of the principal Act is repealed.

9 Amendment of section 16 of Cap. 14:17

Section 16 ("Application for new licences") of the principal Act is amended—

- (a) in subsection (2) by the deletion of paragraph (e);
- (b) by the insertion after subsection (4) of the following subsections—

"(5) Every licensing authority shall establish or cause to be established or approve an electronic medium within five years from the date of commencement of this Act, through which persons may lodge electronic applications for a licence in terms of subsection (1).

(6) Where a licensing authority has established or approved an electronic medium for the purpose of submission of applications for a licence in terms of subsection (1), any person may submit an electronic application referred to in subsection (1) through such electronic medium to such licensing authority and the licensing authority concerned shall attend to such application electronically, in accordance with this section.

(7) For the purposes of subsection (5), "date of commencement" means the date of commencement of the Shop Licences Amendment Act, 2016."

10 Amendment of section 20 of Cap. 14:17

Section 20 ("Decision of licencing authority on application for new licence") of the principal Act is amended by the repeal of subsection (5)(a) and substitution of the following—

“(a) determine an application for a new licence within twenty-one days of the day for which an application in terms of section sixteen has been made unless, at the request of the applicant, the hearing or determination of the application has been postponed for any longer period.”.

5 **11 Repeal of section 23 of Cap. 14:17**

Section 23 (“Renewal of licence”) of the principal Act is repealed.

12 Amendment of section 30 of Cap. 14:17

Section 30 (“Removal permit”) of the principal Act is amended in subsection (4) by the insertion after “subsection (1)” of “and in so doing shall provide reasons for the
10 cancellation of the permit, to the permit holder”.

13 Amendment of section 32 of Cap 14:17

Section 32 (“Powers of authorised officers”) of the principal Act is amended in subsection (1), by the deletion from paragraph (a)—

- (a) after “upon” of “, search”;
- 15 (b) in the proviso, of “or search” wherever it occurs.

14 Repeal of section 40 of Cap 14:17

Section 40 (“Composition of Administrative Court”) of the principal Act is repealed.

15 Amendment of First Schedule to Cap. 14:17

20 The First Schedule to the principal Act is amended—

- (a) in paragraph 1(d), by the deletion of—
 - (i) “and private wire” and the substitution of “private wire and fibre”;
 - (ii) “the Posts and Telecommunications Corporation” and the substitution of “Tel-One (Private) Limited”;
- 25 (b) in paragraph 4(b), by the deletion of “refreshments” and the substitution of “meals or refreshments”;
- (c) by the deletion of paragraph 10.

16 Amendments to Cap. 14:17

30 The provisions of the principal Act set out in the first column of the Schedule are amended to the extent specified opposite thereto in the second column of the Schedule.

SCHEDULE (Section 16)

<i>Provision</i>	<i>Extent of amendment</i>
Section 4(2), 37(3) and 43(1) and (2)	By the deletion of “or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment”.
Section 5(2), 30(3a) and 32(2)	By the deletion of “or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment”.

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Section 10(3), 31(4) and 38(2)

By the deletion of " or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment".

Section 35(5)

By the deletion of "or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment".